REMARKS / ARGUMENTS

The previous rejection under 35 USC 112, first paragraph, appears to have been withdrawn.

Claims 1-5 are rejected under 35 USC 103(a) over Wood et al in view of Barosi et al. Applicants request reconsideration and withdrawal of this rejection for the reasons that follow.

Since the discussion in the Office action refers to Tille et al and not to Wood et al, Applicants assume that the rejection is over Tille et al in view of Barosi et al, as in the previous office action.

The Examiner relies on Tille et al as disclosing the PTK787 inhibits the b-FGF pathway and on Barosi et al as suggesting that b-FGF pathway inhibition would likely be a treatment for AMM. Thus, according to the rejection, it would be obvious for one of ordinary skill to administer PTK787 as a b-FGF inhibitor to treat AMM.

However, the Examiner acknowledges that PTK787 is a much weaker inhibitor of b-FGF induced proliferation (100-1000 times weaker) than of VEGFR induced proliferation in Tille et al's assay. Such information would surely create some doubts in one of ordinary skill about whether PTK787 would have clinically useful b-FGF inhibitor properties. Since the present claims cover the treatment of patients, such doubts are highly relevant to the question of whether one of ordinary skill would have a reasonable expectation of success based on the prior art.

In order to reject the present claims under 35 USC 103, the Examiner must demonstrate that the skilled artisan would have a reasonable expectation of success for treating AMM patients with PTK787 based on the disclosures of the prior art. If correct, the alleged disclosures of the references may provide a basis to formulate a reasonable hypothesis relating to the use of PTK787 for the treatment of AMM. However, Applicants assert that pharmaceutical research is a highly unpredictable field, and the references do not provide any disclosure which would lead the skilled artisan to expect that such a hypothesis will actually turn out to be correct when subjected to experimental testing.

Naturally, the scientist is hopeful that experiments which he or she conducts will support the hypothesis being tested and usually has some theoretical basis to expectation that it will. Yet, there are undoubtedly experiments that fail and hypotheses which are incorrect. Whether

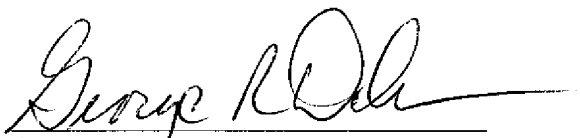
the expectation of success is reasonable is linked to the predictability of the field of the experiment and the disclosures of the prior art. In more predictable fields, the knowledge and experience of one of ordinary skill in the art may be sufficient to permit them to predict with a reasonable level of certainty whether an experiment will be successful. However, in less predictable fields, there must be some objective teaching in the art that gives the skilled artisan a higher level of confidence for any expectation of success to be reasonable. Otherwise, the inventor's own work testing the hypothesis could, with the benefit of hindsight, be the basis a rejection under 35 USC 103.

It is the hindsight use of the present disclosure which provides the information needed for any expectation of success to be reasonable. Therefore, Applicants believe that such hindsight is the basis for the present rejection. Because of this, the rejection under 35 USC 103 is improper and should be withdrawn.

For the reasons discussed above, Applicants request reconsideration and withdrawal of the rejection under 35 USC 103(a).

Entry of this response and reconsideration and allowance of the claims are respectfully requested.

Respectfully submitted,



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